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SENSITIVE

STATE FOR AC/CB, VC/CCB, L/ACV, IO/S  
SECDEF FOR OSD/ISP  
JOINT STAFF FOR DD PMA-A FOR WTC  
COMMERCE FOR BIS (GOLDMAN)  
NSC FOR CHUPA  
WINPAC FOR LIEPMAN

E.O. 12958: N/A

TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC):WRAP-UP FOR WEEK  
ENDING 10 OCTOBER 2003

This is CWC-107-03.

Action Request in para 19.

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ARTICLE VII ACTION PLAN  
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1. (U) It appears a consensus has been reached on an Article VII action plan for national implementation. Following an Oct. 9 meeting chaired by DG Pfirter with the Ambassadors of the U.S., U.K., India and Iran, agreement was reached on the one final substantive issue, which was the acceptable wording on action to be taken to address non-compliance. Agreement was reached on "any necessary measures if appropriate", although India and Iran stressed the need to go back to capitals for approval. The follow-on Oct. 10 discussions provided an opportunity for India, in particular, to provide additional non-substantive points. At this time, the facilitator, Mark Matthews (U.K.) does not know of any new substantive problems, and remains hopeful that none will arise in the run-up to the CSP.

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UNIVERSALITY ACTION PLAN  
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2. (U) A final round of informal consultations on October 9 succeeded in bringing the draft Universality Action Plan close to consensus among participating delegations. Facilitator Consuelo Femenia proposed to submit the text (issued October 13 and faxed to AC/CB) as the basis for a decision at the next Executive Council session. Although some interested delegations (India, South Africa, France) were not present for the final informal consultations, and Mexico reserved judgment pending instructions from its capital, there was no dissent to Femenia's proposal.

3. (U) The latest version includes changes to preambular paragraphs proposed by Korea (noting, inter alia, that the UNGA has stressed the importance of achieving CWC universality). The ROK also asked for States Parties' views on whether the declaration of the CSP on universality which has been adopted every year should be repeated at CSP-8, or whether it should be supplanted by CSP endorsement of the Action Plan.

4. (U) The language on points of contact was further strengthened: the EC "strongly recommends the establishment, on a voluntary basis, of 'points of contact' among States Parties in a number which allows for the effective promotion of universality in all relevant regions or sub-regions." Delegates continued to question how these POCs would be identified and how they would share action if more than one in a geographic area.

5. (U) At U.S. Del's urging, the EC is to request the Technical Secretariat "to prepare a comprehensive annual document on planned universality-related activities.... The document should set appropriate numerical targets of new States Parties." Femenia told us that she did not expect any further assaults on numerical targets for accession.

6. (U) Many delegations supported merging PPs 9 and 10 (PPs 8 and 9 in the October 8 text then under discussion), but Femenia told DelOff that she had left them as separate paragraphs to avoid equating the verification and assistance functions of the OPCW (PP 9 contains references to verification, PP 10 to assistance). Still, she was concerned that India and/or Iran might re-open debate on those points in the EC.

7. (U) On October 7, Germany had suggested that the OPCW's consultant to Latin America on universality issues should be invited to address the next informal session to provide

further ideas for the Action Plan, but Femenia said there was insufficient time before the CSP to take new suggestions on board.

18. (U) South Africa repeatedly asked whether the Action Plan had budgetary implications. Keith Wilson of the Secretariat's External Relations Division said it would not

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require additional staff or funding to implement the plan, which would simply help guide and rationalize the activities of the ERD. Others pointed out that voluntary contributions were already contributing to some of the activities envisioned in the plan.

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2004 BUDGET  
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19. (U) In the Oct. 9 budget informals, DG Pfirter made his pitch for a 7.36% increase as the minimum necessary to ensure that core functions of the organization are performed. The DG provided an Oct. 13 note, FAXed to AC/CB, in which he outlined the impact of budget increases of only 7%, 6.36% and 5.86%. In previewing the idea of a 7% increase, the DG had made a pretty strong case during the informals, stating that personnel cuts would be required. However, in his note, the DG's case was more moderate. He wrote that there were obviously "presentational" advantages of an increase of just under 7%. He commented that "Indeed, in my earlier proposal, I made clear that, in order to add 250,000 Euros to ICA activities, I would seek further efficiency savings of 0.4%. My proposal was and remains to use those additional efficiency savings for ICA activities. That is only my proposal. Alternatives would be:

- to use the efficiency savings in full and to reduce the size of my budget request to 6.96% rather than to increase programme activity. In that case, no additional funds would be available for ICA activities;
- to deduct a proportion of the savings from the budget request and increase ICA activities by a smaller amount;
- to spread the reduction in programme activity beyond and including ICA."

110. (U) The DG's note goes on to state that, "those are the broad options. The political choice is for member States. Within this 0.4% bracket, I am entirely relaxed about any different package which commands consensus subject to two key provisos. First, I cannot deliver efficiency savings and programme increases, and a net reduction in the budget increase simultaneously. Second, as your Chief Executive, I am not prepared responsibly to score efficiency savings twice or to make unrealistic promises. 'Fictitious savings' would simply aggravate the problem of cash risk and 'fictitious income.'"

111. (U) Predictably, the DG's paper goes on to make the case that with an increase of only 6.36%, the impact would be severe, and "core programme activities affected would include inspector training and travel, transportation of inspection equipment, conference services and general operating expenditure." An increase of only 5.86%, "would produce negative real growth" and the DG's note includes the comment that "I cannot responsibly contemplate such a level, given the severe programme cuts that would be required across the board."

112. (U) With regard to the positions of other delegations, South Africa announced at the informals that it could accept a budget increase of more than 7% as long as ICA increases were assured. Mexico had the same message, stressing that ICA must be in the regular budget. Switzerland said it could accept a 6.5% increase, with the flexibility to go higher. The Germans reiterated that they could accept a 6% increase, adding that the Italians had said on behalf of the EU states that the Europeans could not accept a 7.36% increase.

113. (SBU) It is clear that nothing will happen in the run-up to the CSP. EC Chairman Kubernat flatly said that, barring unforeseen developments, the only question is what day next week would be most appropriate for the Special EC. The Japanese position on an increase is becoming increasingly important, and the Japanese delegation did not cite a number during the budget informals. Not surprisingly, we have heard different reports of the outcome of the DG's trip to Japan. The Japanese have been studiously non-committal and merely emphasized that the DG had ample opportunity to make his case. The DG believes he got indications of support, although without a firm number. In any event, the Japanese delegation has invited the U.S. delegation to a working dinner on Oct. 17, where the budget will certainly be the dominant topic.

114. (U) Finally, the DG presented the draft decision documents regarding retention of the 2001 cash surplus and

the retention of Article IV/V cash received in 2004 for 2003 inspections.

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CSP-8 PREPARATIONS  
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115. (U) CSP Chairman Djoudi (Algeria) held an Oct. 14 meeting to go over preparations for the upcoming CSP. The highlights:

- The Chairman of CSP-8, decided by the Asian Group, will be the Ambassador of Malaysia, Her Excellency Dato Noor Farrida Arriffin.
- The two Vice-Chairmen from each regional group will be India and Japan (Asia), and Mexico and Guatemala (Latin America). There were no decisions from the African or Eastern European Groups. The Western Group Vice-Chairmen should be the U.S. and Switzerland, but the Spanish were not there to provide the information.
- The Chairman of the Committee of the Whole is still be determined by the African Group.
- Chairman of the Credentials Committee should be Portugal, although again the Spanish were not there to provide the official notification.
- EC nominees from each group. Asia nominated Pakistan, Malaysia, Sri Lanka and Iran. The Latin American and Caribbean Group nominated Panama, Peru, Cuba and Uruguay. All other groups still need to provide nominations.

116. (U) With regard to a Special Executive Council meeting, the recommendation from EC Chairman Kubernat was for a special EC on Monday afternoon (10/20) or Wednesday evening (10/22). Russia spoke in favor of the Wednesday evening session. The consensus outcome was to hold the Special EC on Tuesday afternoon (10/21).

117. (U) Djoudi noted that it would be important to have a position ready on the ILO decision on former DG Bustani. His summation of the sentiment among delegations was that the majority believe the OPCW should handle this as quickly as possible, while some delegations believe the organization should take its time. He added that the consensus is on not opening up the details of Bustani's actions. DG Pfirter noted that the legal counsel for the OPCW had given three options: 1) pay the judgment, 2) ask the ILO Administrative Tribunal to review the decision, addressing the issues of the jurisdiction as well as the calculation of material damage, 3) appeal the ILO decision to the ICJ.

118. (U) The U.S. del noted that we have no instructions from Washington at this time. Dutch Ambassador Vogelaar said the Dutch government supports an appeal to the ICJ, but would go with the majority view at the CSP. He added that ignoring the judgment is not an option acceptable to the Dutch. Vogelaar then floated the idea of informal discussions with Bustani's attorneys or a representative on the hope that an arrangement could be made to have Bustnai receive the moral damages, but accept a reduction on the material damages, as he has been serving as Brazilian Ambassador to the U.K. There was no consensus on such an action. Djoudi concluded by emphasizing that it would not be responsible to simply leave no recommendation for the CSP.

119. (U) On administrative matters, South Africa asked for more time to consider the proposed amendments to the Rules of Procedure of the CSP, and there were no objections. The U.S. del expressed its support for the proposals, and also made the point about the benefit of having an amendment to Rule 34 that would allow for each CSP to elect the officers, or at least the chairman, for the subsequent CSP. The issue was left for further consideration. Finally, Djoudi provided the list of NGOs seeking participation in the CSP, and del has FAXed it to AC/CB. In addition, Djoudi noted the request of the ICRC to make a statement at the CSP. ACTION REQUEST: Del would like to know if 1) Washington objects to any of the NGOs listed and 2) if Washington objects to the ICRC request.

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RESULTS BASED BUDGETING - CONSULTANT'S REPORT  
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120. (U) The consultants working on RBB are meeting with the DG, Herb Schulz and others, and, on Oct. 7, provided interested delegations with a snap-shot of the state of play at the start of their consultations. The overall timeline is to have the following outcome for the upcoming budgets:  
2005 - predicting performance;  
2006 - predicting performance, but still too early to set targets;  
2007 - the TS can commit to definitive targets.

121. (U) As for what will happen in the near-term, OPCW divisions are making proposals on what they believe they could achieve with different resource levels under the medium-term plan. These are being consolidated and the

process is now almost at the point where there are decisions and results adequate to be used in RBB. The specific divisions involved: inspectors, verification, ICA, external relations and administration. Work is also being done by other offices; health and safety, for instance, has also developed definitions. The results with regard to the medium-term plan should be ready for the DG to put forth by the end of the year. The consultant noted that in a minority of cases, the numbers are there to ensure success. In most cases, a lot of work needs to be done.

122. (U) The goal is for the 2005 budget, presented in 2004, to have proposals which will focus on defined results. The numbers will appear whenever possible, but there will be lots of qualitative factors. By the end of 2004, it will be possible to measure all the results of the project plans. The 2006 budget will show what was achieved in 2004. By the 2007 budget, there should be definitive targets for the TS.

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STAFF COUNCIL COMPLAINTS  
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123. (U) OPCW Staff Council Chairman Gordon Vachon met, at his request, with Western Group representatives October 10 to explain that implementation of the CSP's tenure decision, the DG's one-year contract renewal scheme, and the Host Nation Headquarters Agreement were posing serious problems for staff members. Vachon said that while morale "had not hit bottom," the staff was feeling "battered." He stressed that they were concerned not only for themselves, but also for the damaging financial and operational impact that some of these problems would have on the OPCW itself.

124. (U) Vachon said there appeared to be a strong legal argument against moving immediately to implement the CSP decision to move to an average seven-year tenure for OPCW staff members. Twelve of the staff members whose contracts had not been extended had already obtained legal council and were taking their cases to the ILO Administrative Tribunal, which would take them up in mid-November, he said. Those staff members would be replaced by February, and a further 50 contracts were likely to be terminated before the ILOAT issued its verdicts. If the Tribunal ruled in favor of the dismissed staff, it would be too late for the OPCW to re-instate them, so the organization would likely have to pay financial compensation and penalties. While it could not be known now how the ILOAT would decide, how many cases would be affected, or what sums might be awarded in compensation or damages, the cost to the OPCW could come to millions of euros. Vachon asked whether this did not argue for suspending the termination of personnel contracts until the ILO issued its decisions. The CTBTO had taken this course as "financially prudent."

125. (U) Apart from financial implications for the organization and personal disruptions for the staff, Vachon said that consultants had predicted the tenure decision to lead to a 5-10% drop in organizational effectiveness, due to the "lag factor," to vacancies, and to the need to train new hires. The loss of experienced inspectors who had been on the job, in many cases, for five years, would be slow to repair.

126. (U) Moving to the one-year contract extension policy, Vachon questioned the need to switch abruptly to a "3-1-1-1" system (a three-year contract with one-year renewals), since most staff members had already been employed for five years, so a "3-2-1" system would seem to provide sufficient flexibility. From a management perspective, Vachon argued, keeping a longer tenure period would also aid recruitment, as many professionals and technicians would balk at disrupting their careers for what might prove to be only three years with the OPCW. Moreover, the rationale for implementing the change in contract extensions had not been to increase turnover per se, but to make it possible to release poorly-performing personnel. Yet those whose contracts were not being renewed had received a form letter explaining the decision had been necessary to achieve "turnover of staff." This entailed severe disruptions for those who suddenly found that their contracts were not being renewed, such as having to withdraw children from school in the Netherlands not only before the end of the year, but in the middle of their term.

127. (U) The OPCW-Host Nation Headquarters Agreement had been concluded by the first CSP, Vachon recalled, but a number of unsettled issues continued to present problems for OPCW staff. These included questions about property tax exemptions, the VAT threshold, and ID cards for the dependents and domestic servants of staff members. Vachon noted that when prompted by the Staff Council, OPCW management had provided written responses to these and other questions, promising in some cases to secure "expedited settlement," but still nothing had been settled. These issues had now been under discussion for years without resolution. In response to a query from Ambassador Javits,

Vachon said the Staff Council was not at this time requesting States Parties to intervene, but added that they were a party to the agreement, and should presumably take an interest in its implementation.

128. (U) Ambassador Javits thanked Vachon for his constructive attitude and said that States Parties could not fail to appreciate the staff's staying power and commitment to the organization. He acknowledged that staff turnover would inevitably impact efficiency, but observed that this was a normal and temporary situation until a new "culture" took hold at OPCW. The Ambassador further pointed out that the tenure decision had been made by the CSP (not the DG, as was the case at the CTBTO) and that the DG had felt that the one-year contract extension policy was necessary, at least as a temporary measure, to begin implementing the tenure policy.

129. (U) Ito sends.

SOBEL